

### Remarks

Claims 1-2, 4-9, 11-16 and 18-23 were previously pending and stand rejected under 35 USC 103(a). Independent claims 1, 5, 7, 15 and 20 have been amended. Applicants assert that the currently pending claims are in condition for allowance as set forth more fully below.

### Interview Summary

A phone interview was conducted on March 28. During the interview it was discussed that the current office action had withdrew the Epler, Lueng, Ferris reference combination asserted against the claims in the previous office action and reasserted the combination of only Epler and Lueng from second previous office action. The examiner indicated that upon reconsideration, the common language in the independent claims concerning “playing for the same telephone number dialed by the calling party a priority alert signal” could be construed to be anticipated by Epler (See e.g. Col 5, l. 58-60) since the tones are being played to the called party while the called party is on the telephone number that was called by the calling party. The Examiner indicated that the fundamental operation of the claimed subject matter was indeed distinguishable from Epler but that the claims needed to clarify that it was the switch **sending** the alert tones to **the same telephone number** dialed by the calling party whereas Epler sent the tones to a different telephone number which were then delivered to be played to the called telephone number indirectly by way of the Epler Distinctive Ring Tone system. Applicants were asked to make clarifying amendments and accompanying arguments for reconsideration.

### 103 Rejections

Claims 1, 2, 4-9, 15-16, and 18-23 stand rejected under 35 USC 103(a) as being anticipated by Epler (US Pat 5,825,867) in view of Leung (US Pat 6,005,870). Claims 11-14 stand rejected under 35 USC 103(a) as being anticipated by Epler in view of Leung and further in view of Relyea (U.S. Patent 6,185,285).

Claims 1, 2, 4-9, 15-16 and 18-23

This Office Action has relied upon Epler for teaching or suggesting most of the claimed elements. This Office Action goes on to concede that Epler does not teach or suggest that the “information is one of multiple codes pre-provided to the caller” and then asserts that Lueng cures that discrepancy. Applicants concur that Epler does not teach that the “information is one of multiple codes pre-provided to the caller”.

Without conceding to the above assertions as to Lueng, the Applicants point out that Epler also fails to teach the claim recitations concerning priority alerts being sent to the telephone number dialed by the caller. Similar subject matter is recited in amended independent claims 1, 7, 15 and 20 and independent claim 11. As a representative example independent claim 1 recites in pertinent part:

“[a] method for providing a call waiting priority alert service to a subscriber of a telephone line...sending to the **same** telephone number dialed by the calling party a priority alert signal associated with the priority code provided by the calling party and that is indicative of the level of urgency of the call to interfere with the first communication session and alert the subscriber to the level of urgency of the call...”.

Thus it is evident that the particular priority alert signal corresponding to whichever priority code has been entered is sent by the system to the same telephone number dialed by the calling party. Epler does not teach sending to the **same telephone number** dialed by the calling party a priority alert signal.

Although the current Office Action cites Column 6, lines 10-27 for its proposition that “the distinctive tone is [sent to] a user (i.e. the called party) who’s telephone number was being dialed by the caller”, Column 6 actually discloses that the priority of the call is sent to the called party by using the Distinctive Ring Service of the Enhanced Call Waiting system. In Epler, the system dials one of several numbers for the called party depending upon which level of urgency needs to be indicated. This multi-phone number method is fundamentally different from sending one of several priority alert signals to the single telephone number of the called party. Thus, instead of indicating the level of urgency using a single telephone number, the system of Epler requires a separate telephone number in order to affect each of the different levels of urgency for the called

party. Therefore, Epler fails to disclose each of the elements of the pending claims as relied upon by the Office Action.

Further, Leung deals with a single alert and does not have different alerts based on different call priorities. Instead, Leung uses the priority of the call to determine whether to alert or not to alert, rather than to specify urgency via the alert. Therefore Leung does not account for the deficiencies of Epler.

Furthermore, amended independent claim 20 recites wherein the second communication is sent from at least one of a telephone, an interactive pager, a computer and a personal digital assistant. Neither Lueng nor Epler discloses or suggests that the system of Epler can be used between other than two telephones. As such, amended claim 20 is allowable over the combination of Epler and Lueng for at least this additional reason.

Accordingly, the independent claims 1, 7, 15, and 20 are allowable over the combination of Epler and Leung. Dependent claims 2, 4-6, 8, 9, 16, 18, 19, and 21-23 depend from allowable base claims and are also allowable for at least the same reasons.

#### Claims 11-14

Similar to the arguments provided above for amended independent claims 1, 5, 15, and 20, independent claim 11 also contains subject matter not disclosed or suggested by the combination of Epler, Lueng and Relyea that is relied on by the Office Action as being disclosed by Epler. Independent claim 11 recites in pertinent part:

“[a] system for providing a priority call waiting alert service to a subscriber of a telephone line ...

wherein the processor instructs the switch to interrupt the first communication session with a **priority alert signal for the same telephone number used by the calling party** if the priority code provided by the calling party is recognized by the processor to be one of a plurality of priority codes previously associated with the telephone number...”

In Epler, the system dials one of several numbers for the called party depending upon which level of urgency needs to be indicated. This multi-phone number method is fundamentally different from sending one of several priority alert signals to the single telephone number of the called party. Thus, instead of indicating the level of urgency using a single telephone number, the system of Epler requires a separate telephone

number in order to affect each of the different levels of urgency for the called party. Therefore, Epler fails to disclose each of the elements of the claims relied upon by the Office Action and as above, Lueng fails to cure this deficiency.

In the rejection of claim 11, the Office Action offers Relyea for merely the proposition that the user can change his profile remotely via computer and does not teach sending priority signals to a called party. As such, Relyea also fails to teach the above deficiency of Epler and independent claim 11 therefore is allowable over the combination of Epler, Lueng and Relyea for at least this reason. Dependent claims 12-14 depend from an allowable claim 11 and are allowable for at least these same reasons.

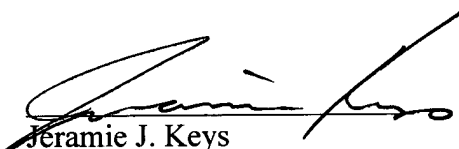
#### Conclusion

Applicants assert that the application including claims 1, 2, 4-9, 11-16, and 18-23 is now in condition for allowance. Applicants request reconsideration in view of the amendments and remarks above and further request that a Notice of Allowability be provided. Should the Examiner have any questions, please contact the undersigned.

No fees are believed. However, please charge any additional fees or credit any overpayment to Deposit Account No. 50-3025.

Respectfully submitted,

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